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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,811	03/19/2004	David L. Selinger	249768079US	7068
25096	7590	04/06/2006	EXAMINER	
PERKINS COIE LLP			DUNHAM, JASON B	
PATENT-SEA			ART UNIT	
P.O. BOX 1247			PAPER NUMBER	
SEATTLE, WA 98111-1247			3625	

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/804,811	SELINGER ET AL.	
	Examiner	Art Unit	
	Jason B. Dunham	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group II without traverse on December 30th, 2005 is noted.
2. Claims 1-8 and 21-34 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected groups, there being no allowable generic or linking claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 9-20 are rejected under 35 U.S.C. 102(e) as being anticipated by

Gross (U.S. Patent Application Publication No. 2004/0260600).

Referring to claim 9. Gross discloses one or more computer memories collectively containing a data structure comprising a plurality of entries, each entry identifying a product purchased early and in unusual proportion by customers that typically order products promptly after they become available for ordering (Gross: abstract).

Referring to claim 10. Gross further discloses a method in a computing system for characterizing an item, comprising:

- Determining a score for the item reflecting the extent to which the item has been ordered by customers who have been determined to commonly order items promptly after they become available (Gross: paragraphs 31-32); and
- Scaling the score in a manner that causes to positively relate to the item's price and negatively relate to the amount of time that has elapsed since the item became available for ordering (Gross: paragraph 126).

Referring to claim 11. Gross further discloses a method wherein an item detail web page is associated with the product, the method further comprising including in the item detail web page an indication of the item's scale score (Gross: paragraph 43).

Referring to claim 12. Gross further discloses a method wherein the included indication explicitly indicates the item's scaled score (Gross: paragraph 126).

Referring to claim 13. Gross further discloses a method wherein the included indication explicitly indicates a range into which the item's scaled score falls (Gross: paragraph 191).

Referring to claim 14. Gross further discloses a method wherein the included indication indicates a relationship between the item's scaled score and scale scores for additional items (Gross: paragraph 191).

Referring to claim 15. Gross further discloses a computer readable medium whose contents cause a computing system to characterize items by: for each of a plurality of items:

- Determining a score for the item in a manner that causes it to positively relate to the extent to which the item has been ordered by customers who have been determined to commonly order items promptly after they become available, positively relate to the item's price, and negatively relate to the amount of time that has elapsed since the item became available for ordering (Gross: paragraphs 31-32 & 126); and
- Storing indications identifying at least a portion of the items having the highest scores (Gross: figure 5A).

Referring to claim 16. Gross further discloses a computer readable medium wherein the contents of the medium cause the computer system to store in conjunction with the stored indications the scores determined for the corresponding items (Gross: figure 5A).

Referring to claim 17-19. Gross further discloses a computer readable medium wherein the contents of the medium cause the computer system to generate a document, transmit to customers, and transmit to make available for retrieval by customers a document identifying at least a portion of the items having the highest scores (Gross: figure 5A).

Referring to claim 20. Claim 20 is rejected under the same rationale set forth above.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3625

- Landesmann (U.S. Patent No. 6,735,572) discloses systems and methods for buyer driven targeting of purchasing entities.
- Kuelbs (U.S. Patent Application Publication No. 2005/0283406) discloses systems and methods for selling articles of manufacture.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason B. Dunham whose telephone number is 571-272-8109. The examiner can normally be reached on M-F, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Fadok can be reached on 571-272-6755. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JBD
Patent Examiner
4/3/06